

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PEREZ WORLEY,)	CASE NO. 1:18-cv-00050
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	MAGISTRATE JUDGE
CHARMAINE BRACY, WARDEN,)	KATHLEEN B. BURKE
)	
)	
Respondent.)	<u>REPORT & RECOMMENDATION</u>
)	
)	
)	

Petitioner Perez Worley (“Worley” or “Petitioner”), acting pro se, filed this habeas corpus action pursuant to 28 U.S.C. § 2254. Doc. 1. His federal habeas petition is deemed filed on January 3, 2018, the date he placed it in the prison mailing system.¹ Doc. 1, p. 13 (hereinafter referred to as “Petition”). This matter has been referred to the undersigned Magistrate Judge for a Report and Recommendation pursuant to Local Rule 72.2.

The Respondent filed a Return of Writ. Doc. 12. Worley filed two motions for stay and abeyance which were denied. Docs. 16 & 26. Worley also filed a motion to amend petition which was denied. Doc. 26. Worley’s Traverse was due by July 1, 2019. *See* May 31, 2019, Non-Document Order. Worley did not file a Traverse. The docket reflects that recent mailings from the Court to Worley were returned (Docs, 24, 25, & 27), with the most recent returned mail

¹ “Under the mailbox rule, a habeas petition is deemed filed when the prisoner gives the petition to prison officials for filing in the federal courts.” *Cook v. Stegall*, 295 F.3d 517, 521 (6th Cir. 2002) (citing *Houston v. Lack*, 487 U.S. 266, 273 (1988)). Worley’s Petition was docketed in this Court on January 9, 2018. Doc. 1.

bearing the notation return to sender “inmate paroled or released” (Doc. 27). Worley’s last notice of change of address was filed on October 17, 2018. Doc. 17.

Because the docket was not clear as to Worley’s status, on August 27, 2019, the undersigned ordered the State to file a notice advising the Court as to the current status of Petitioner. Doc. 28. Pursuant to that Order, Respondent has filed a Notice of Petitioner’s Status, advising the Court that “[a]ccording to the records of the Ohio Department of Rehabilitation and Correction, Perez Worley has died.” Doc. 29.

Considering the representations contained in Respondent’s Notice of Petitioner’s Status (Doc. 29), the undersigned recommends that the Court find the issues in this case moot and DISMISS this action with prejudice.

Dated: August 29, 2019

/s/ Kathleen B. Burke

Kathleen B. Burke
United States Magistrate Judge

OBJECTIONS

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within fourteen (14) days after the party objecting has been served with a copy of this Report and Recommendation. Failure to file objections within the specified time may waive the right to appeal the District Court’s order. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *see also Thomas v. Arn*, 474 U.S. 140 (1985), *reh’g denied*, 474 U.S. 1111 (1986).